

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>KATIE GATTO, Individually and as Administratrix of the Estate of Nina Gatto,</b>	:	<b>CIVIL ACTION NO. 3:20-CV-1684</b>
	:	
<b>Plaintiff</b>	:	<b>(Judge Conner)</b>
	:	
v.	:	
	:	
<b>LACKAWANNA COUNTY, <i>et al.</i>,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this 30th day of September, 2021, upon consideration of the motions (Docs. 24, 28, 31, 35) to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), filed by all defendants, and the motion (Doc. 28) to strike filed by defendants Lackawanna County District Attorney's Office, District Attorney Mark Powell, Chief Detective Joseph Jordan, Detective John Munley, and Detective Harold Zech, and the parties' respective briefs in support of and opposition to said motions, and for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

1. The motion (Doc. 24) filed by defendants City of Scranton, Officer Gerry Tallo, and Officer Eric Jordan is GRANTED to the extent it seeks dismissal of Counts IV, V, VI, VII, and VIII.
2. The motion (Doc. 28) filed by defendants Lackawanna County District Attorney's Office, District Attorney Mark Powell, Chief Detective Joseph Jordan, Detective John Munley, and Detective Harold Zech is GRANTED in part and DENIED in part as follows:
  - a. The motion is GRANTED to the extent it seeks dismissal of the Lackawanna County District Attorney's Office from this suit.

- b. The motion is GRANTED to the extent it seeks dismissal of the suits against District Attorney Mark Powell, Chief Detective Joseph Jordan, Detective John Munley, and Detective Harold Zech in their official capacities.
  - c. The motion is GRANTED to the extent it seeks to strike plaintiff's request for damages in Count VIII related to "the loss and deprivation of Decedent's normal activities, pursuits, and life pleasures."
  - d. The motion is GRANTED to the extent it seeks to strike paragraphs 255 and 266.
  - e. The motion is GRANTED to the extent it seeks dismissal of Counts II and VI.
  - f. The motion is otherwise DENIED.
- 3. The motion (Doc. 31) filed by defendant Lackawanna County is GRANTED in part and DENIED in part as follows:
  - a. The motion is GRANTED to the extent it seeks dismissal of Count VI.
  - b. The motion is GRANTED to the extent it seeks to strike plaintiff's request for damages in Count VIII related to "the loss and deprivation of Decedent's normal activities, pursuits, and life pleasures."
  - c. The motion is otherwise DENIED.
- 4. The motion (Doc. 35) filed by Dunmore Borough and Detective Corey Condrad is GRANTED in part and DENIED in part as follows:
  - a. The motion is GRANTED to the extent Dunmore Borough seeks dismissal of Counts VI, VII, and VIII.
  - b. The motion is GRANTED to the extent Corey Condrad seeks dismissal of Counts II and VI.
  - c. The motion is otherwise DENIED.

5. Plaintiff may file an amended complaint consistent with the accompanying memorandum and this order within 14 days. In the absence of a timely filed amended complaint, this action shall proceed on the remaining claims.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner  
United States District Judge  
Middle District of Pennsylvania